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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte VICTOR BLAKEMORE SLAUGHTER

Appeal 2009-006645
Application 10/825,388
Technology Center 1700

Decided: April 21, 2010

Before BRADLEY R. GARRIS, CHUNG K. PAK, and
TERRY J. OWENS, *Administrative Patent Judges*.

GARRIS, *Administrative Patent Judge*.

DECISION ON APPEAL

Appellant appeals under 35 U.S.C. § 134 from the Examiner's decision rejecting claims 1, 2, 4-11, and 13-17. We have jurisdiction under 35 U.S.C. § 6.

We REVERSE.

Appellant claims a method which includes removing excess resin from an object by submersing the object in solvent-containing liquid such that the excess resin becomes dissolved, thereby increasing the ratio of dissolved resin to the solvent of the liquid and concomitantly altering an electrical characteristic of the liquid, utilizing changes in the electrical characteristic as an indicator of the previously mentioned ratio, and “using said changes in the electrical characteristic of the liquid to drive a visual display that is able to provide a plurality of different indications as to said ratio” (claim 1).

Representative claim 1 reads as follows:

1. A method comprising:

forming at least a portion of an object by curing resin;

providing a storage device containing a liquid, the liquid comprising solvent and dissolved resin, the liquid having a ratio of the dissolved resin to the solvent;

removing an amount of resin from the object by submersing the object in the liquid in the storage device in a manner such that the amount of resin becomes dissolved in the liquid and thereby increases the ratio of the dissolved resin to the solvent of the liquid, the increase of the ratio altering an electrical characteristic of the liquid;

utilizing changes in the electrical characteristic of the liquid as an indicator of the ratio of the dissolved resin to the solvent of the liquid; and

using said changes in the electrical characteristic of the liquid to drive a visual display that is able to provide a plurality of different indications as to said ratio.

The references set forth below are relied upon by the Examiner as evidence of obviousness:

Paal	4,015,986	Apr. 05, 1977
Obeng	5,670,376	Sep. 23, 1997
Oberlander	6,368,421 B1	Apr. 09, 2002
Nakagawa	2002/0197869 A1	Dec. 26, 2002
Kung	2004/0160225 A1	Aug. 19, 2004

Under 35 U.S.C. § 103(a), the Examiner rejects the appealed claims as follows:

- (a) claims 1, 4, 6, 7, 10, 13, and 16 over Nakagawa, Paal, and Obeng;
- (b) claims 2, 5, and 11 over Nakagawa, Paal, Obeng, and Oberlander;
- (c) claims 8, 9, 14, and 15 over Nakagawa, Paal, Obeng, and Kung; and
- (d) claim 17 over Nakagawa, Paal, Oberlander, and Obeng.

The Examiner acknowledges that Nakagawa fails to disclose the visual display feature required by the independent claims on appeal but finds that Obeng “discloses that the changes in the conductivity (i.e., electrical conductivity) are measured, monitored and visually displayed” via display elements such as analyzer electronics and a computer (Ans. 5, 10). The Examiner concludes that it would have been obvious for an artisan to provide Nakagawa with such a display feature in view of Obeng (*id.* at 5, 11).

Appellant argues that neither Nakagawa nor Obeng contains any teaching or suggestion of the visual display feature required by the independent claims (Br. 7-9, 11-13). We agree.

The Examiner finds that Obeng discloses “the use of an analyzer electronics that monitors and analyzes the conductivity of the solution and

creates an output based on the different measured values, and shows the conductivity vs. time graph (see figure 5) of the fluid in the tank” (Ans. para. bridging 15-16, para. bridging 19-20). This finding is erroneous. Obeng’s Figure 5 “is a graph showing the conductivity of the fluid in tank 100 as a function of time” (Obeng, col. 2, ll. 55-57). Moreover, Obeng describes Figure 5 merely as a graph “useful in understanding illustrative embodiments of the present invention” (col. 1, ll. 59-60). The Examiner identifies no support for the belief that the Figure 5 graph is visually displayed by Obeng’s analyzer electronics. Based on the record before us including the disclosure of Obeng, the graph in Figure 5 is not displayed by the analyzer electronics or computer of Obeng.

In the Response to Argument section of the Answer, the Examiner points out that Nakagawa discloses an electrical conductivity meter and states that “a conductivity meter measures and inherently displays the conductivity values” (Ans. para. bridging 11-12). By this statement, the Examiner implies that Nakagawa inherently discloses the display feature required by the independent claims. However, the Examiner has provided no basis in fact or technical reasoning in support of the statement “a conductivity meter . . . inherently displays the conductivity values” (*id.*). *See Ex Parte Levy*, 17 USPQ2d 1461, 1463-64 (BPAI 1990) (Examiner, if relying upon theory of inherency, must provide basis in fact and/or technical reasoning to reasonably support determination that allegedly inherent characteristic necessarily flows from teachings of applied prior art). For this reason, we regard the Examiner’s inherency statement as being erroneous based on the record before us.

In light of the foregoing, we cannot sustain the Examiner's § 103 rejections of the appealed claims.

The decision of the Examiner is reversed.

REVERSED

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